

REMARKS

Status of Claim:

Claims 1-15 are pending for examination.

Prior Art Rejection:

Claims 1, 2, 4, 5, 9, 10, 11 and 12 stand rejected under 35 U.S.C. § 102 as anticipated by Slone (5619991). Claim 3 stand rejected under 35 U.S.C. § 103 as obvious over Sloane in view of Chen (5553609). Finally, claims 6, 7, 8, 13, 14 and 15 stand rejected under 35 U.S.C. § 103 as obvious over Sloane in view of Cumming (5301105).

The examiner's rejections are respectfully traversed.

Applicant's claim 1 recites:

1. A home medical examination system comprising:

a user terminal for a client requesting a home medical examination to make a request for a medical examination of a disease,

a medical center terminal for transmitting a medical examination chart created including instructions on a medical examination of a disease made in response to said request for a medical examination of a disease and on emergency measures based on the examination and instructions on a prescription for a medicine and on the use of medical equipment based on said medical examination of a disease to said user terminal and a facility for compounding said medicine, and

a pharmacy terminal for giving instructions on delivery to the user of the medicine compounded at said compounding facility based on said medical examination chart and said medical equipment and sending the instruction result as delivery information to said user terminal and said medical center terminal.

The underlined portion of claim 1 serves to distinguish applicant's claim 1 over the primary Sloane reference. In particular, the examiner points to column 6, lines 47-51 for teaching these limitations. However, the examiner is incorrect. The portion of Sloane relied upon by the examiner merely states:

Finally, if medications are to be prescribed as detailed at block 73, then as indicated at block 75 a prescription can be e-mailed to pharmacy 13 tagged with the transaction number and patient data and the patient directed to pick up his/her medication thereat.

Thus, according to Sloane, the pharmacy may receive an e-mail requesting the filing of the prescription. However, the patient must then pick-up the prescription from the pharmacy. Sloane provides no teaching of a pharmacy terminal for giving instructions on delivery to the user of the medicine compounded at said compounding facility based on said medical examination chart and said medical equipment and sending the instruction result as delivery information to said user terminal and said medical center terminal. As such, Sloane does can not be used as an anticipatory teaching.

As stated by the Federal Circuit, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference" *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, (Fed. Cir. 1989). See MPEP §2131. Thus, in order for a reference to be utilized as an anticipatory reference under the provisions of 35 U.S.C. § 102, the reference must disclose each and every claim limitation. This is certainly not the case here, and thus the Sec. 102 rejection as to independent claim 1 (and all claims dependent therefrom) must be withdrawn.

The sole remaining independent claim 9 contains as similar limitation in method format, namely:

giving instructions on delivery to the user of the medicine compounded at said compounding facility based on said medical examination chart and said medical equipment and sending the instruction result as delivery information from a

pharmacy terminal to said user terminal and said medical center terminal.

This claims, under similar reasoning as for claim 1, is likewise not anticipated by Sloane.

The deficiencies of the primary reference are not made up in the secondary references of Chen and Cumming. As such, as to the obviousness rejections, it is submitted that the PTO has not made out a *prima facie* case of obviousness under the provisions of 35 U.S.C. § 103, and thus applicants claims are patentable over the prior art.

Conclusions:

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.


The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5407
Facsimile: (202) 672-5399

By 

David A. Blumenthal
Attorney for Applicant
Registration No. 26,257